UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1998/29
7 November 1997

Original: ENGLISH

COLLECTION

COMMISSION ON HUMAN RIGHTS
Fifty-fourth session
Item 6 of the provisional agenda

QUESTION OF THE REALIZATION OF THE RIGHT TO DEVELOPMENT

Report of the Intergovernmental Group of Experts on the Right to Development on its second session

(Geneva, 29 September - 10 October 1997)

Chairman-Rapporteur: Mr. Antonio García Revilla (Peru)

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GE.97-14219 (E)

Introduction

1. At its fifty-second session, the Commission on Human Rights, in its resolution 1996/15, decided to establish an intergovernmental group of experts with a mandate to elaborate a strategy for the implementation and promotion of the right to development, as set forth in the Declaration on the Right to Development, in its integrated and multidimensional aspects, bearing in mind the conclusions of the Working Group on the Right to Development, established by the Commission on Human Rights in resolution 1993/22, and the conclusions of the World Conference on Human Rights and of the four World Conferences, 1/ and that:

(a) Such working group would be established for a two-year period;

(b) The working group would elaborate concrete and practical measures for the implementation and promotion of the right to development and submit a progress report to the Commission on Human Rights at its fifty-third session; the working group should focus on the development of such a strategy, which should include recommendations for further practical measures for implementation and promotion, and report to the Commission at its fifty-fourth session;

(c) The members of the working group would be appointed on the basis of equitable geographical representation, in consultation with the regional groups, and of their competence and acquired experience in that field; and urged that they accomplish their mandate;

(d) The working group would be composed of 10 experts, nominated by Governments, to be appointed by the Chairman of the Commission on Human Rights;

(e) The working group experts would be in consultation with the treaty bodies and with the United Nations High Commissioner for Human Rights on all issues relevant to the implementation of the right to development.

2. The first session of the Intergovernmental Group of Experts on the Right to Development was held at Geneva from 4 to 15 November 1996.

3. At its fifty-third session, the Commission on Human Rights had before it the progress report of the Intergovernmental Group of Experts (E/CN.4/1997/22). In its resolution 1997/72, the Commission, having taken into account the conclusions reached by the Intergovernmental Group of Experts, noted the procedures adopted by the Group of Experts in the conduct of its work during its first session and the report it submitted to the Commission and called upon the Group of Experts to:

1/ The United Nations Conference on Environment and Development, the International Conference on Population and Development, the World Summit for Social Development and the Fourth World Conference on Women: Action for Equality, Development and Peace.

(a) Encourage participation of Member States, international institutions and non-governmental organizations in its deliberations, inter alia through a greater use of public meetings;

(b) Continue to implement its mandate as contained in Commission resolution 1996/15, namely the elaboration of a strategy for the implementation and promotion of the right to development as set forth in the Declaration on the Right to Development;

(c) Continue to give due consideration to recommendations for the elimination of obstacles already identified to the realization of the right to development;

(d) Continue to explore ways and means for the promotion of international cooperation, dialogue and partnership for the realization of the right to development;

(e) Give due consideration to the possibility of establishing a follow-up mechanism, or enhancing existing ones, to the Declaration on the Right to Development.

Opening and duration of the second session

4. The second session of the Intergovernmental Group of Experts on the Right to Development was held at the Palais des Nations, Geneva, from 29 September to 10 October 1997. The session was opened by the Acting Deputy High Commissioner for Human Rights.

Composition of the Working Group and attendance

5. The Intergovernmental Group of Experts on the Right to Development at its second session consisted of the following 10 experts: Mr. Gudmundur Alfredsson (Iceland), Mr. Krzysztof Drzewicki (Poland), Ms. Margarita Escobar López (El Salvador), Mr. Antonio García Revilla (Peru), Mr. Martin Khor Kok Peng (Malaysia), Ms. Thérèse Pujolle (France), Mr. Shaheed Rajie (South Africa), Mr. Vladlen Stefanov (Bulgaria), Mr. Cheikh Tidiane Thiam (Senegal), Mr. Bozorgmehr Ziaran (Islamic Republic of Iran).

6. Mr. Khor attended the working group from 1 to 8 October 1997. Ms. Escobar attended from 29 September to 8 October 1997.

Election of officers

7. At its 1st meeting, on 29 September 1997, the Group of Experts elected the following officers:

Chairman-Rapporteur: Mr. Antonio García Revilla

Vice-Chairman: Mr. Shaheed Rajie

Adoption of the agenda

8. Also at its 1st meeting, the Group of Experts, on the basis of the provisional agenda (E/CN.4/AC.45/1997/1), adopted the following agenda for its second session:

1. Election of officers.

2. Adoption of the agenda.

3. Implementation of Commission on Human Rights resolution 1996/15, entitled "The right to development".

Observers

9. The following States members of the Commission on Human Rights attended the session as observers: Algeria, Argentina, Austria, Brazil, Chile, China, Colombia, Cuba, Czech Republic, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, France, Germany, India, Indonesia, Italy, Japan, Malaysia, Mexico, Netherlands, Pakistan, Russian Federation, South Africa, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay.

10. The following other States Members of the United Nations also attended the session as observers: Bolivia, Honduras, Hungary, Iran (Islamic Republic of), Iraq, Morocco, Norway, Peru, Romania, Senegal, Slovakia, Spain, Sweden, Syrian Arab Republic, Tunisia.

11. Representatives of the following United Nations bodies and specialized agency attended the session as observers: United Nations Centre for Human Settlements (Habitat), United Nations Conference on Trade and Development, United Nations Development Programme, United Nations Non-Governmental Liaison Service, International Labour Organization.

12. Representatives of the following non-governmental organizations attended the session as observers: International Council on Social Welfare, International Movement ATD Fourth World, Baha'i International Community, International Service for Human Rights.

Documentation

13. The Group of Experts at its second session had before it the following documents:

Documents prepared for the session

E/CN.4/AC.45/1997/1	Provisional agenda
E/CN.4/AC.45/1997/WP.1	Working paper prepared by Mr. C.T. Thiam

Background and reference documents

E/CN.4/1997/22	Progress report of the Intergovernmental Group of Experts on the Right to Development on its first session

Commission on Human Rights, fifty-third session:

E/CN.4/1997/17	Report of the Secretary-General on measures for solution to debt crisis
E/CN.4/1997/20	Report of the working group on structural adjustment programmes and economic, social and cultural rights
E/CN.4/1997/21	Report of the Secretary-General on implementation of Commission resolution 1996/15 on the right to development
E/CN.4/1997/19	Progress report of Special Rapporteur, Ms. Ksentini, on adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights.
E/CN.4/1997/SR.13 to 18	Summary records on items 5 (Realization of economic, social and cultural rights) and 6 (Right to development)
E/CN.4/1997/NGO/2, 32, 36, 48, 53, 79	Written statements submitted by NGOs on items 5 and 6
E/1997/23- E/CN.4/1997/150	Report of the Commission on Human Rights on its fifty-third session (resolutions 1997/72, 1997/7, 1997/8, 1997/9, 1997/10, 1997/11, 1997/17 and decision 1997/103).

Sub-Commission on Prevention of Discrimination and Protection of Minorities, forty-ninth session:

E/CN.4/Sub.2/1997/7	Report of the Secretary-General on expert seminar on forced evictions
E/CN.4/Sub.2/1997/8	Final report of Special Rapporteur, Mr. Guissé, on impunity (economic, social and cultural rights)
E/CN.4/Sub.2/1997/9	Final report of Special Rapporteur, Mr. Bengoa, on income distribution

E/CN.4/Sub.2/1997/23 — Final report of Special Rapporteur, Mr. Al-Khasawneh, on population transfer

E/CN.4/Sub.2/1997/SR.11-13 — Summary records on item 4 (Realization of economic, social and cultural rights)

Sub-Commission resolutions 1997/6, 1997/11, 1997/18, 1997/19, 1997/20 and decisions 1997/108 and 1997/109

Other documents:

E/1996/22-E/C.12/1995/18 — Committee on Economic, Social and Cultural Rights, Report on the twelfth and thirteenth sessions

Human Development Report (1997) — United Nations Development Programme (UNDP)

UNCTAD:

Trade and Development Report, 1997

The Least Developed Countries 1997. Report

World Investment Report 1997 (Transnational Corporations, Market Structure and Competition Policy)

The ILO, Standard Setting and Globalization. Report of the Director-General. International Labour Conference, eighty-fifth session, 1997

Organization and methods of work

14. With regard to its methods of work, the Group of Experts decided, pursuant to the request contained in Commission on Human Rights resolution 1997/72, to hold as many public meetings as possible, but to work in closed sessions whenever necessary. In the course of public meetings, the Group of Experts informed Member States, United Nations bodies and agencies and non-governmental organizations of progress made in its work, held an exchange of views and received contributions. The Group of Experts held nine public meetings and six closed meetings; parts of three more meetings were closed.

15. Pursuant to the request made by the Group of Experts at its first session, Mr. C.T. Thiam presented his report on his mission to attend the African Commission on Human and People's Rights from 10 to 13 September 1997 (E/CN.4/AC.45/1997/WP.1). The document was extensively discussed and well received.

16. At the invitation of the Group of Experts, the chiefs of the three Branches of the Office of the High Commissioner for Human Rights participated in the debate and informed the experts about the mandates, functions and activities of their respective Branches, in particular with regard to the promotion and implementation of the right to development.

17. At the 14th (closed) meeting, on 7 October 1997, the High Commissioner for Human Rights addressed the Group of Experts.

18. At the 17th and closing meeting, on 10 October 1997, the Group of Experts adopted its suggestions for a global strategy for the promotion and implementation of the right to development on the basis of the text contained in the draft report (E/CN.4/AC.45/1997/CRP.1).

19. The observers for Brazil, Cuba, Ecuador, Egypt, El Salvador, Ethiopia, France, Germany, Italy, Mexico, the Netherlands and Senegal made preliminary comments on the suggestions which are summarized in the annex.

SUGGESTIONS FOR A GLOBAL STRATEGY FOR THE PROMOTION AND IMPLEMENTATION OF THE RIGHT TO DEVELOPMENT

General introduction

20. Issues related to sustainable development and human rights, and specifically the right to development and the promotion and the implementation of the Declaration on the Right to Development, are a high priority to the international community.

21. The "atmosphere" in which the international community should focus on these issues should be based on a dialogue - transparent and action-oriented and in a cooperative spirit - in order to arrive at a global strategy to implement the right to development.

22. It should be the responsibility of each Member State and international organization to protect and promote all human rights and fundamental freedoms, including the right to development.

23. The human rights of women and the rights of the child should always be of the highest priority on all human rights and right to development agendas.

24. Fifty years after the adoption of the Universal Declaration of Human Rights, there is an urgency to implement this right because of the effects of "poverty" in developing countries and even in the developed countries, and because the lack of human development presents a threat to security and peace at the national and international levels.

25. The fiftieth anniversary of the Universal Declaration of Human Rights offers an important opportunity to launch an initiative to put the right to development firmly on the global agenda.

26. A coalition, spearheaded by the Secretary-General and the High Commissioner for Human Rights, uniting international organizations, States and representatives from civil society, could implement a clear campaigning and mobilization platform.

27. The globalization of the world economy and the increasing pre-eminence of market rules have provided new opportunities, but also new risks, in the efforts to achieve development. There is a risk of marginalization of countries, groups and individuals that are unable to compete, and also the increased possibility of economic or financial instability and the resultant social discontent due to inability to realize the right to development. It is in this new context that the experts reaffirm the even greater importance of the recognition and realization of the right to development in its multidimensional aspects, taking a balanced, integrated and multidimensional approach as elaborated in the progress report of the Working Group on its first session (E/CN.4/1997/22, sect. II).

28. The United Nations system's activities in the promotion of the right to development should be coordinated and public awareness of the Declaration on the Right to Development should be enhanced.

29. The right to development requires further efforts to highlight more not only its multidimensional aspects and content but also characterization of the corresponding obligations both at national and international levels.

PART I: ELEMENTS OF A GLOBAL STRATEGY

Chapter 1. United Nations system and other international organizations

30. In the framework of her effort aimed at rationalizing, adapting, strengthening and streamlining the United Nations machinery in the area of human rights, the High Commissioner for Human Rights should provide high-level coordination to ensure that the right to development is given appropriate consideration throughout the United Nations system.

31. In order to mainstream human rights issues, it is vital that the High Commissioner for Human Rights participate in the inter-agency task forces established by the Administrative Committee on Coordination to monitor the implementation of commitments made at the World Summit for Social Development, held at Copenhagen. This includes, inter alia, basic social services for all; full employment and sustainable livelihoods; and the enabling environment for economic and social development.

32. A set of comprehensive human rights indicators in the area of civil, cultural, economic, political and social rights should be integrated into the work of the task forces.

33. Upon the request of the country concerned, the High Commissioner for Human Rights should actively participate in the Country Strategy Notes process that the United Nations system elaborates with various States in the developing world.

34. The Commission on Human Rights as well as the High Commissioner for Human Rights, in fulfilling their mandates to coordinate the human rights promotion and protection activities, should adopt and implement an integrated and multidimensional approach for the promotion and protection of the right to development, in line with the concepts contained in the progress report of the Group of Experts (chapter II, especially paragraphs 53-61). This initiative should be accompanied by a significant enhancement of support from relevant international institutions, regional inter-State organizations and agencies for that purpose.

35. All the treaty based human rights bodies, working groups and thematic rapporteurs should be encouraged to integrate, within their respective mandates, questions concerning the promotion and implementation of the right to development by addressing issues relating to causes of structural impediments to the global enjoyment of human rights, including the right to development.

36. It is recommended to encourage the High Commissioner for Human Rights to request the persons chairing the treaty bodies to amend the guidelines for the preparation of the "core documents forming part of the reports of States parties" in such a way that information contained therein may be broadened to include relevant data on domestic and international developments programmes as well as their effects on the enjoyment of human rights.

37. The Commission on Human Rights may wish to suggest to treaty bodies that they amend their guidelines for national reports so that Governments address their position on structural obstacles to ensuring full enjoyment of the right to development; exchange views with Governments on this issue and provide them with information and assessment by specialized agencies and non-governmental organizations within a comprehensive, constructive and open dialogue; formulate appropriate country-targeted recommendations and general comments in which specific proposals for technical assistance and development programmes are formulated, and enhance international cooperation for this purpose.

38. Bearing in mind that not all States are legally bound by human rights treaties and thus are not subject to several monitoring procedures, it is recommended that, in relation to the right to development, the High Commissioner for Human Rights invite States to ratify human right treaties; reconsider the validity of reservations made by States parties to human rights treaties with the view to their withdrawal; accept monitoring mechanisms and procedures provided for by human rights treaties; promote further strengthening and establishing of monitoring mechanisms and procedures (e.g. complaints procedures of the Committee on the Elimination of Discrimination Against Women (CEDAW) and the Committee on Economic, Social and Cultural Rights (CESCR)). The High Commissioner is thus invited to consider inviting States, under the respective treaty obligations, to report regularly on the reasons for their difficulties in taking action as specified above, and the obstacles to such action. Reports by States on their difficulties in achieving these objectives should be presented regularly to the Commission on Human Rights in the form of an analytical report of the High Commissioner with her proposals, if appropriate, for technical assistance.

39. Efforts currently under way are welcomed which seek to elevate the level of protection of economic, social and cultural rights to that afforded to civil and political rights, both by further elaborating the justiciability of the international standards on economic, social and cultural rights and by strengthening the international monitoring of State compliance. In particular, the work of CESCR to this effect is welcomed and the Commission on Human Rights is encouraged to give positive consideration to the Committee's proposals and to employ other existing monitoring methods in this category. The United Nations human rights programme is also encouraged to incorporate as soon as possible economic, social and cultural rights into technical cooperation programmes. The annual Human Development Report of UNDP was considered an important reference document.

40. The High Commissioner for Human Rights should pursue dialogue with the World Bank, the International Monetary Fund (IMF) and other financial institutions with a view to their incorporating the principles of the right to development in their policies, programmes and projects. In particular, the High Commissioner should stress that in their activities and programmes, the international financial institutions should give the highest priority to an action-oriented approach to the right to development in its multidimensional aspects.

41. The content of and procedures for structural adjustment programmes and policies should be reviewed in terms of their effects on development possibilities and economic options and on the realization of the right to development. These concerns should be effectively taken into account in designing such programmes, and factors that are important for development should be promoted in such programmes. Countries that have to implement such programmes should have the opportunity and the right to participate effectively in the drawing up of the programmes. The role of organizations of civil society is also important in this regard. Also, recent joint efforts by the World Bank and NGOs to review the effects of structural adjustment programmes should be encouraged. The above measures should also be followed up by the working group on structural adjustment programmes and economic, social and cultural rights.

42. The international community should adopt more effective measures to resolve the external debt problem of developing countries for a more effective promotion and realization of the right to development. There should be an initiative for a comprehensive, rather than piecemeal, resolution of this problem covering commercial, bilateral and multilateral debt, and also involving reduction of debt stock.

43. The Highly Indebted Poor Country (HIPC) Initiative proposed by the World Bank and IMF and agreed to by member Governments, is to be encouraged. The High Commissioner for Human Rights should, as part of her dialogue with these institutions, point out areas where the HIPC Initiative should be improved so as to facilitate the implementation of the right to development, such as, among others, the inflexibility over the timing of debt relief, the excessive proliferation of conditionalities and the lack of an analytical basis for debt relief eligibility.

44. The High Commissioner should also endeavour to highlight the fact that multilateral and bilateral creditors need to reach agreement on the burden-sharing issue of debt relief as a matter of urgency.

45. The United Nations and its agencies should monitor and help improve the performance of countries in their efforts to alleviate the poverty of their citizens and reduce social and economic inequities, for example by ensuring that the poor have a fair share of economic assets and opportunities, such as land, credit and sustainable livelihoods. The United Nations agencies should better coordinate their efforts towards this end. They should also play an active role in this regard, including in the promotion of conditions for eradication of corruption, greater participation in economic decision-making by ordinary citizens, and adequate openness in the decision-making process.

46. An effective mechanism should be established to coordinate macroeconomic policies at the global level so as to ensure that the needs and rights, especially the right to development, of developing countries are fully taken into account. Moreover, the workings of the international financial market should be reviewed, especially the effects of unregulated financial speculation on and manipulation of development prospects and the right to development.

47. The last reports of the United Nations Conference on Trade and Development on world investment provide a lot of issues for the future dialogue.

48. Human rights, and in particular their selective interpretation or application, should not be used as an instrument of trade protectionism or of leverage for narrow economic or commercial ends, or to constrain unfairly the legitimate development programmes of countries.

49. International organizations and States should address the transboundary impacts of their policies and practices on all human rights, including the right to development.

50. As a concrete measure towards implementing the right to development, the quantity and quality of aid should be improved. In particular, a larger share of aid should be targeted at the eradication of poverty, the promotion of social and sustainable development and the promotion of human rights. In their public expenditure pattern, States should allocate a larger share to improving the health, education and welfare needs, especially of the poor.

51. The United Nations human rights programme, the International Labour Organization and other relevant United Nations agencies should make all necessary efforts to promote and protect the rights of all categories of working people (including organized and unorganized labour, farmers and the unemployed), including the rights to work, to livelihood and to an adequate income.

52. The United Nations human rights programme and other relevant United Nations organs and agencies should, by way of monitoring and technical cooperation, do everything within their competence to protect the cultural identity of minorities and indigenous peoples, as an essential element in

eliminating patterns of discrimination against these groups. The cultural identities of migrants and refugees should likewise be actively protected.

53. The United Nations system should coordinate its work for the promotion and protection of the cultural diversity and the cultural identities of national and local populations, in the light of the increasing spread and influence of modern communications techniques and cultural products.

54. In addition to monitoring respect for civil and political rights, the United Nations human rights programme and other organs and agencies of the United Nations system should encourage and monitor political participation, popular participation, accountability, transparency and anti-corruption efforts at the national level. The same should be applied, as appropriate, at the international level.

55. An adequate and prompt response should be given to the threat that the issue of development or lack thereof poses to international and internal peace and security. The international dialogue should therefore take place in a manner that incorporates the needs and interests of all parties, in order to avoid conflict. International cooperation should be designed to meet the challenge of implementation of the right to development as a preventive approach in order to safeguard international security and internal peace.

56. Positive references were also made to the evolution of minimum humanitarian standards applicable in all situations, including internal disturbances and tension, and appropriate humanitarian assistance.

57. The freedoms of movement, association, assembly, information, expression and opinion are all universal rights. It is recommended that States implement and the United Nations and its agencies monitor, without discrimination, the promotion and respect of these rights by all States.

58. International cooperation should be made available to States, upon their request, to support their national efforts, within their own jurisdiction, towards the promotion and respect of human rights and development in areas where different types of conflicts have occurred.

59. There should be coherence between the respect for the right to development and the functioning of the international trading system. In particular, it should be ensured that less economically developed countries do not suffer losses from trade rules. The effects of trade rules on equity and on development prospects and options (especially of developing and the least developed countries) should be studied and, if necessary, the rules should be adapted to enable the realization of the right to development. Concerns relating to social development, equity and the realization of the right to development should be major aspects in the design of present and future international trade rules.

60. Renewed efforts should be made to overcome the problem of low and unstable prices of commodities from developing countries. Problems related to the deterioration in the terms of trade of vulnerable commodity-dependent developing countries should be addressed through these renewed efforts in the framework of reactivation of mechanisms of North-South negotiations.

61. All appropriate institutions should make every effort to ensure an adequate net flow of financial resources to developing countries. In this regard, the reverse flow of resources from developing to developed countries should be addressed. The additional resources to developing countries should be used, in particular, for programmes to meet basic needs, especially of the poor.

62. It is recommended that the High Commissioner enter into dialogue with the Organization for Economic Cooperation and Development (OECD) and its Development Assistance Committee (DAC) on the policy implications of their report entitled Shaping the 21st Century: The Contribution of Development Cooperation, adopted in May 1996. The objective of the dialogue would be to ensure that the right to development is integrated into the report.

63. The specific needs of net food-importing developing countries should be addressed in trade liberalization programmes and activities in order to ensure the enjoyment of the right to food.

64. The activities of the Office of the High Commissioner for Human Rights on the promotion and implementation of the right to development should be supported with the allocation of commensurate human and financial resources.

Chapter 2. States

65. States are encouraged to consider legislative and constitutional changes (when their legal system so permits) which are designed to guarantee that treaty law takes precedence over internal law and that treaty provisions are directly applicable in the internal legal order.

66. Guided by the spirit of the integrative approach to all human rights, including the right to development, it was felt pertinent to refer to their characterization as obligations of conduct and obligations of result. Furthermore, State responsibility for the realization of the right to development can also be examined at three levels: the obligation to respect, the obligation to protect, and the obligation to fulfil.

67. States should be encouraged to ratify human rights treaties, reconsider the validity of reservations made to those treaties, accept the monitoring mechanisms and procedures, and cooperate with the international monitoring bodies for the further promotion and protection of human rights and fundamental freedoms.

68. States are invited to adopt economic and social measures in order to avoid the exclusion of groups marginalized by extreme poverty, which directly denies the right to development.

69. With regard to traditional use of natural resources, States should respect and protect the economic basis and conditions of life of local population.

70. States should consider establishing or strengthening structures for the coordination of government work in order consistently to take account of concerns and commitments with regard to human rights in general and the right to development in particular.

71. In areas where conflicts of any type have occurred or are occurring, States should ensure that the population living in the affected area is able to retain the right to their property and legally acquired rights.

72. Extreme or excessive inequalities in the distribution of and access to economic assets are an obstacle to implementing the right to development if they hinder poor sections of society from having the means to an adequate livelihood. Therefore, States should take measures to ensure that poor and vulnerable groups, including landless farmers, indigenous people and the unemployed, have access to productive assets such as land, credit and the means for self-employment.

73. It is of vital importance to respect in an equal manner the social rights of all people. To that end, it is recommended that health and educational programmes be established in border areas between States and within their respective jurisdictions. These measures shall require cooperation among States and the international community.

74. The human rights of migrants need to be respected. To that end, all States should make the appropriate facilities available and incorporate human rights aspects into their immigration policies.

75. In many areas of the world refugees status is not respected. It is recommended that the Office of the United Nations High Commissioner for Refugees (UNHCR) strengthen the promotion and implementation of all applicable conventions to ensure the human rights of refugees, in particular the principle of non-refoulement, and their status.

76. The States and other actors involved should make all necessary efforts to promote and protect the rights of all categories of working people (including organized and unorganized labour, farmers and the unemployed), including the right to work, to livelihood and an adequate income. Core labour standards that are internationally recognized should be promoted and adhered to, particularly in the context of ensuring the social dimension of the globalization process.

77. United Nations agencies and States should take coordinated measures to protect the indigenous knowledge and traditional knowledge of local communities, including farmers and indigenous people, and to affirm the rights of these communities to obtain adequate benefits from their knowledge and to prevent the appropriation by other parties of their intellectual and cultural property.

78. National institutions must be set up and/or strengthened for the promotion and protection of all human rights, including the right to development. National judges should be encouraged to apply international human rights law.

79. It was suggested that corruption should be made punishable in national law and that affected individuals and groups should be able to submit complaints on this issue when needed to both national and international bodies. Such petition procedures should also be available in cases of alleged nepotism.

80. States should make every effort to cooperate to promote and respect the right to development in each other's country. In that context, States should avoid the unilateral imposition of such measures as coercive economic measures and extraterritorial application of domestic laws which run counter to the principles of free trade and hamper the development of developing countries.

81. States should respect and implement faithfully their obligations under international law and their international commitments.

Chapter 3. Civil society

82. Recognizing the vital role of civil society as a condition for successful implementation of the right to development, the United Nations system, the World Trade Organization (WTO) and other international organizations should expand the space for participation of NGOs and other civil society organizations in their meetings, conferences, and consultative and policy formulation processes. Concrete measures include the establishment and active role of NGO liaison and collaboration units within each United Nations agency and international organization, and the provision of resources to facilitate NGO participation in conferences, conventions and other meetings of international institutions. An equitable representation of civil society organizations from developing countries should be ensured.

83. States should adopt the principle of recognizing and enlarging the role of civil society organizations in the economic, social and political life of their countries. In particular, civil society groups representing vulnerable groups (such as the poor, homeless, unemployed, farmers and working people) and representing the public interest (for example, consumer, environmental, human rights and women's organizations) should be given effective roles and channels to communicate their interests in arenas of local and national decision-making (for example, in the State's formulation of the national budget, and in economic and social policies). States should also establish at the national level consultative or advisory bodies on the right to development, which could complement the existing ones, when appropriate, and include representatives of civil society, to provide proposals to monitor and implement the right to development in their countries.

84. Civil society organizations should incorporate the principles of the right to development in their activities. Recognizing that the effective implementation of the right to development can be attained only with the active support and efforts of the civil society, NGOs, representative organizations of farmers, labour, women and other public interest groups (such as consumer, environment and human rights organizations) should be urged to strengthen their activities in promoting the right to development at local, national, regional and international levels. Civil society organizations should be encouraged and urged to network among themselves, form alliances, and conduct joint activities and campaigns to assist people everywhere to

realize their right to development, and to influence States and international agencies to pay serious attention to the implementation of the right to development and to take concrete measures to that end.

85. Recognizing the concerns increasingly voiced by civil society organizations around the world about the potential negative social effects of rapid globalization, international organizations, States and civil society organizations themselves are encouraged to collaborate and establish forums for dialogue to monitor and discuss various aspects of the globalization process, in particular the inequitable pattern of benefits and losses, and the danger of marginalization of weaker countries and poorer sections of society. In particular, the implications of the globalization process for the realization of the right to development should be addressed.

86. In view of the expanding influence of financial and market forces at international and national levels, civil society organizations should be supported by States and international organizations to fulfil their countervailing role in representing the public interest and minimizing possible adverse social effects of the market. Civil society groups should address the implications of transnational corporations and financial institutions especially in terms of the ethics of their behaviour, economic, environmental, health and cultural effects, effects on local firms and sectors, and on the right to development. The civil society organizations should be supported by international agencies and States in this regard.

87. There should be commitment on the part of civil society in all its forms to the promotion and achievement of participatory democracy, sustainable development and respect for human rights and fundamental freedoms and for the rule of law.

88. Local, regional and national programmes for development should be adopted and carried out with the participation of the civil society.

PART II. FOLLOW-UP MECHANISM

89. Throughout the preceding chapters, as well as in the progress report of the Group of Experts, in line with the Group's mandate, practical suggestions have been made with relevance to follow-up, including the coordination and mainstreaming of human rights and the right to development in the work of various United Nations organs, United Nations agencies and other intergovernmental organizations. Suggestions are also being addressed, via the Commission on Human Rights, to States and civil society.

90. An international dialogue, with the Economic and Social Council (ECOSOC) and the Administrative Committee on Coordination (ACC) mentioned as possible forums, should take place with all national and international parties to the development process and all actors involved in the implementation of human rights and the right to development. The parties to such a dialogue, as appropriate, should include States, United Nations institutions and agencies, other intergovernmental organizations and NGOs.

91. To ensure promotion and implementation of the Declaration on the Right to Development, the Group of Experts recommends the establishment of a follow-up mechanism.

92. The follow-up mechanism could, inter alia, perform the following functions:

(a) Review the progress made in the promotion and implementation of the right to development, at the international and national levels, and provide specific recommendations thereon;

(b) Examine the activities of organizations of the United Nations system, including the Bretton Woods organizations (World Bank and International Monetary Fund) and the World Trade Organization, relevant to the implementation of the right to development;

(c) Provide the High Commissioner for Human Rights with information and technical advice necessary for her activities for promotion and implementation of the right to development;

(d) Review voluntary reports received from States, United Nations institutions and agencies, other intergovernmental organizations and NGOs;

(e) Submit to the Commission on Human Rights an annual report on its activities containing, in particular, its conclusions and recommendations or suggestions for the Commission.

93. The Chairman of the mechanism would, as appropriate, participate in and/or contribute to coordination activities of the United Nations system on the right to development, including the high-level and coordination segments of the Economic and Social Council. The Council should consider the question of the right to development.

94. The following options may be considered by the Commission on Human Rights as a possible follow-up mechanism:

(a) The Commission on Human Rights itself;

(b) A group of high-level experts established by the Secretary-General of the United Nations upon the recommendation of and in consultation with the Commission on Human Rights, in accordance with equitable geographical representation and upon the nomination by the regional groups;

(c) A working group of the Commission on Human Rights composed of experts nominated by the regional groups;

(d) A committee on the right to development composed of [...] Member States from each regional group for a period of [...] years, based on the principle of ongoing rotation.

Annex

COMMENTS MADE BY OBSERVER GOVERNMENTS

1. The observer for the Netherlands stressed that the positive tone and atmosphere prevailing in the Group of Experts, as well as its balanced report, gave rise to the expectation that the future work would be fruitful. In his opinion, the key paragraph of the report was the paragraph in which the responsibility of States was mentioned, since international policy, for instance, could only be achieved through actions of States. Regarding the follow-up, he suggested that the current Group might be able to continue its work for one more year.

2. The observer for Brazil felt that the Group of Experts in their recommendations should have devoted more attention to the implementation and promotion of the right to development at the international level. This view was shared by the observers for Mexico, Cuba, El Salvador and Ecuador.

3. The observer for Mexico considered that the draft report was not balanced regarding the national and the international aspects that influenced the realization of the right to development. He considered that more attention should have been given to obligations of States at the international level, especially in fostering an environment conducive to development. He regretted that too much emphasis had been given to international monitoring activities of national policies, as was suggested in different paragraphs of the draft report, since international monitoring activities did not necessarily contribute to the realization of the right to development. At the same time, he regretted that articles 3 to 7 of the Declaration on the Right to Development were not properly reflected or not reflected at all in the draft report. He mentioned that the Commission on Human Rights had decided to establish an intergovernmental group of experts with a mandate to elaborate a strategy for the implementation and promotion of the right to development, as set forth in the Declaration on the Right to Development, in its integrated and multidimensional aspects.

4. The observer for Cuba stated that the report could have been more balanced with more attention paid to the international dimensions of the right to development.

5. Referring to the question of core labour standards, the observer for Ethiopia regretted that the debate held at the ILO on this issue was not properly reflected in the report. He supported the paragraphs that dealt with the questions of highly indebted developing countries. Regarding the follow-up mechanism, he favoured an option proposing the establishment of a group of high-level experts since, in his view, that could help to launch an initiative to put the right to development firmly on the global agenda.

6. The observer for Egypt also objected to what he considered as an implicit linkage in the report between core labour standards and international trade, which was contrary to the Singapore Declaration of the first ministerial meeting of WTO. He also regretted that there was no reference in the report to the activities of ILO which was, in his view, the only competent organization in the area of labour standards. Referring to the report of the

Group as a whole, the observer for Egypt stated that since there already existed on the national level the institutions, policies and laws required to ensure the implementation of the right to development while all such elements were much weaker at the international level, the report should have concentrated more on the action to be undertaken at the international level.

7. The observer for France considered that the report was well balanced and responded to the mandate established by the Commission for a period of two years expiring at the next session of the Commission. The report could, in her opinion, refer to the work already done by the Commission on the question of extreme poverty. Regarding the follow-up mechanism, she favoured an option which would ensure adequate support to the High Commissioner's action in this area and a move from general debate to discussion of more specific technical aspects of the right to development.

8. The observer for Germany questioned the inclusion of the word "global" in the suggestions of the Group of Experts for a strategy for the promotion and implementation of the right to development since that word had not been used by the Commission and therefore might influence the balance between national and international aspects of the right.

9. The observer for Senegal felt that the implementation of the right to development required a framework which had not yet been established by the international community. He considered that the right to development was an autonomous right which needed an autonomous machinery. Therefore, there should be a large follow-up mechanism composed of experts.

10. The observer for Italy considered the report to be well balanced and welcomed the proposal concerning the follow-up mechanism. She underlined in particular that in choosing one of the proposed options it was important that the chosen mechanism be consistent with the intended functions. She suggested that the proposed options should become a subject of consultations to be held in advance of the next session of the Commission on Human Rights.